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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

SURGICAL INSTRUMENT SERVICE
COMPANY, INC.,
Plaintiff,

V.

INTUITIVE SURGICAL, INC.,
Defendant.

Case No.: 3:21-cv-03496-AMO-LB

**JOINT STIPULATION AND [PROPOSED]
ORDER REGARDING PRETRIAL PROFFER
RELATED TO DEFENDANT'S MOTION IN
LIMINE NO. 1**

Judge: The Honorable Araceli Martínez-Olguín

1 Plaintiff Surgical Instrument Service Company, Inc. (“SIS”), and Defendant Intuitive
 2 Surgical, Inc. (“Intuitive”) (collectively, the “Parties”) hereby stipulate as follows and respectfully
 3 request that the Court endorse this stipulation with an order:

4 WHEREAS, on November 11, 2024, Intuitive filed its Motion *in Limine* No. 1 to Exclude
 5 Out-of-Court Hospital Statements, Dkt. 290, which motion SIS opposed;

6 WHEREAS, the Court heard argument on Intuitive’s Motion *in Limine* No. 1 during the
 7 Final Pretrial Conference on November 25, 2024;

8 WHEREAS, the Court entered a Minute Entry on November 26, 2024, ordering counsel
 9 to meet and confer to present by December 3, 2024 a timeline for the submission of a pretrial
 10 evidentiary proffer relating to the out-of-court statements that are the subject of Intuitive’s Motion *in*
 11 *Limine* No. 1, Dkt. 316;

12 WHEREAS, counsel for the Parties have conferred as directed and agreed on a timeline;

13 NOW THEREFORE, the Parties jointly submit the Proposed Order attached hereto as
 14 Exhibit A, which provides that:

15 1. SIS will file its pretrial evidentiary proffer regarding statements that are the subject of
 16 Intuitive’s Motion *in Limine* No. 1 by no later than December 11, 2024.

17 2. Intuitive will file its response to such proffer by no later than December 20, 2024.

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 20 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

21
 22 Dated: December 3, 2024

By: /s/ Richard T. McCaulley
 23 Richard T. McCaulley (*pro hac vice*)

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5 *Attorneys for Plaintiff Surgical Instrument
Service Company, Inc.*

6 Dated: December 3, 2024

7 By: /s/ Kenneth A. Gallo

Kenneth A. Gallo

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E-Filing Attestation

I, Kenneth A. Gallo, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above have concurred in this filing.

/s/ Kenneth A. Gallo

EXHIBIT A

1 **[PROPOSED] ORDER AS MODIFIED REGARDING PROFFER RELATED TO**
2 **DEFENDANT'S MOTION IN LIMINE NO. 1**

3 On November 11, 2024, Defendant Intuitive filed its Motion *in Limine* No. 1 to Exclude Out-of-
4 Court Hospital Statements, Dkt. 290, which motion Plaintiff SIS opposed. On November 26, 2024,
5 having heard argument on the motion during the Final Pretrial Conference, the Court directed SIS to
6 make a pretrial evidentiary proffer relating to the statements challenged by Intuitive in its Motion *in*
7 *Limine* No. 1.

8 Pursuant to the Parties' stipulated agreement, the Court hereby orders that:

9 1. SIS will file its pretrial evidentiary proffer regarding statements that are the subject of
10 Intuitive's Motion *in Limine* No. 1 by no later than December 11, 2024.

December 18, 2024 at 12:00 PM PST

11 2. Intuitive will file its response to such proffer by no later than December 20, 2024.

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13 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

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15 Dated December 4, 2024

16 BY THE COURT:

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19 HON. ARACELI MARTINEZ-OLGUÍN
20 United States District Judge
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